THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21739 OF 1996

DATE: 1-2-2007

Between:
D.Rajeswar ...
Petitioner

And

1. The Andhra Pradesh State Housing Corporation rep. By its Managing Director and 3 others
...
Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21739 OF 1996

ORDER:

Heard Sri T.Lakshminarayana, learned counsel for the petitioner. None appears on behalf of the A.P. State Housing Corporation or on behalf of the District Collector and the Mandal Revenue Officer.

The present writ petition is filed to quash the proceedings of the 3rd respondent dated 26.8.1996 as illegal and arbitrary. In the impugned proceedings dated 26.8.1996 the petitioner was required to remit an amount of Rs.70,259-50 ps. in the shape of a Demand Draft in favour of the District Collector within 15 days from the date of receipt of the notice and, on failure to do so, the Mandal Revenue Inspector, Pebair was authorized to realize the amount under the Revenue Recovery Act. Petitioner would specifically state, in the affidavit filed in support of the writ petition, that the impugned notice was issued without giving him an opportunity to show cause and that the impugned notice was illegal, arbitrary and without jurisdiction.

A counter affidavit is filed on behalf of the A.P. Housing Corporation wherein allegations are made

that this amount represents the amount misappropriated by the petitioner and since the petitioner was appointed only under the work experience programme, the disciplinary procedure contemplated under the Service Rules of the Corporation was not held and the petitioner was required to remit the misappropriated amount.

The allegations of misappropriation are grave and serious and the minimum requirement, in compliance with the principles of natural justice, was to call upon the petitioner to show cause as to why action should not be taken against him. The impugned proceedings are issued by the M.R.O. The specific assertion, in the affidavit filed in support of the writ petition, is that the petitioner was not given an opportunity to do so. This averment has not been rebutted by way of a counter affidavit by the M.R.O. Since the plea, that the petitioner was not given an opportunity to show cause, has not been rebutted by way of a counter affidavit filed by or on behalf of the M.R.O, it must be presumed that the petitioner was not provided with such an opportunity. The impugned proceedings of the M.R.O is liable to be quashed for violation of principles of natural justice. It is made clear that this order does not preclude the competent authority from calling upon the petitioner to show cause as to why necessary action should not be taken against him for recovery of the

amounts due which are alleged to have been misappropriated by him.

The writ petition is disposed of accordingly. However, in the circumstances without costs.

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1-2-2007

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